

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SAMUEL VALDEZ

Petitioner,

v.

RONALD HAYNES,

Respondent.

Case No. C21-5322-TSZ-SKV

ORDER GRANTING PETITIONER'S
MOTION FOR ENLARGEMENT OF
TIME AND DENYING MOTION FOR
APPOINTMENT OF COUNSEL

This is a federal habeas action filed under 28 U.S.C. § 2254. This matter comes before the Court at the present time on Petitioner's motion for an enlargement of time to file a response to Respondent's answer to Petitioner's petition, and on Petitioner's motion for appointment of counsel. Dkt. 10. Respondent has filed a response to Petitioner's motion in which he indicates that he does not oppose the requested extension of time, but he does oppose Petitioner's motion for appointment of counsel. Dkt. 11. The Court, having reviewed Petitioner's motions, Respondent's response, and the balance of the record, hereby finds and ORDERS as follows:

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1 (1) Petitioner's unopposed motion for an enlargement of time to file a response to
2 Respondent's answer to his federal habeas petition (Dkt. 11) is GRANTED. Petitioner is
3 directed to file his response not later than ***September 16, 2021***.

4 (2) Respondent's answer to Petitioner's federal habeas petition (Dkt. 8) is RE-
5 NOTED on the Court's calendar for consideration on ***September 24, 2021***. Respondent shall file
6 any reply brief in support of his answer by that date.

7 (3) Petitioner's motion for appointment of counsel (Dkt. 11) is DENIED. There is no
8 right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary
9 hearing is required. *See Terravona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); Rule 8(c) of
10 the Rules Governing Section 2254 Cases in the United States District Courts. However, the
11 Court may exercise its discretion to appoint counsel for a financially eligible individual where
12 the "interests of justice so require." 18 U.S.C. § 3006A.

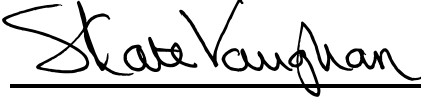
13 The record is not yet sufficiently developed for the Court to determine whether an
14 evidentiary hearing will be required, and petitioner has not demonstrated that the interests of
15 justice are best served by appointment of counsel at this time. Petitioner asserts that appointment
16 of counsel is warranted because of the complexity of the case, his lack of education, and the lack
17 of adequate law library access due to the pandemic. Dkt. 11 at 2. He also asserts that "he
18 struggles to understand the English language." *Id.* The Court notes, however, that Petitioner
19 represented himself throughout his collateral proceedings in the state courts, he litigated a prior
20 habeas action *pro se*, and he filed the instant petition and supporting documents without the
21 assistance of counsel. Nothing in the record before this Court suggests that Petitioner is unable
22 to litigate this case without counsel. Plaintiff thus fails to demonstrate that the interests of

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1 judgment warrant appointment of counsel. Counsel will be appointed, as required, should the
2 Court later determine that an evidentiary hearing is necessary.

3 (4) The Clerk shall direct copies of this Order to Petitioner, to counsel for
4 Respondent, and to the Honorable Thomas S. Zilly.

5 DATED this 28th day of July, 2021.

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7 A handwritten signature in black ink, reading "S. Kate Vaughan", is written over a horizontal line.

8 S. KATE VAUGHAN
9 United States Magistrate Judge

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